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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,784	12/10/2003	Joseph Patrick Denisson	9400-37 (030079)	6907
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EXAMINER KAMPURIA, SHARAD K				
ART UNIT		PAPER NUMBER		
2617				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/732,784

Applicant(s)

DENNISSON ET AL.

Examiner

SHARAD RAMPURIA

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-10, 12-17, 19-21, 23-28 and 30-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-10, 12-17, 19-21, 23-28 and 30-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 23-28, 30-32 are rejected under 35 U.S.C. 101, because of non-statutory as describe following:

Regarding claims 23-28, 30-32, it is clearly calls for “a computer program product” comprising “code means”

As best can be support by the specification (§ 0017 in US 20050130636), “a computer program embodied in a software” is actually “a software/computer program” which does not fall within any of the enumerated statutory categories because it is a software, *and the invention as claimed does not produce a useful, concrete, and tangible result*. Therefore, claims 23-28, 30-32 is nonstatutory. (Please see MPEP 2106.01 [R-6]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-6, 8-10, 12-17, 19-21, 23-28 & 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Hundscheidt; Frank et al.** [US 20070243821 A1] in view of **Solomon, Merrill** [US 20030070174 A1].

As per Claim 1, **Hundscheidt** discloses:

A method of operating a communication network (Abstract), comprising:

Providing a wireless communication network that has bandwidth associated therewith to facilitate communication bi-directional communication between at least one mobile terminal and another mobile terminal; (i.e. communication between two mobiles; ¶ 0039-0040) and

Transmitting streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network. (i.e. streaming media on preauthorized bandwidth; ¶ 0041)

Hundscheidt fails to teaches all the particulars of the claim except obtaining authorization from a media broadcaster that provides streaming media to rebroadcast the streaming media over the wireless network, the streaming media comprising audio and/or video

content; obtaining a subscription at the wireless network from the at least one mobile terminal for the streaming media. However, **Solomon** teaches in an analogous art, that obtaining authorization from a media broadcaster that provides streaming media to rebroadcast the streaming media over the wireless network, the streaming media comprising audio and/or video content; obtaining a subscription at the wireless network from the at least one mobile terminal for the streaming media. (e.g. rebroadcast the particular movie in wireless channel; ¶ 0096, 0099) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to including obtaining authorization from a media broadcaster that provides streaming media to rebroadcast the streaming media over the wireless network, the streaming media comprising audio and/or video content; obtaining a subscription at the wireless network from the at least one mobile terminal for the streaming media in order to provide wireless video-on-demand system has controlled access and/or full VCR functionality.

As per Claim 2, Hundscheidt disclose:

The method of claim 1, wherein transmitting the streaming media comprises: transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using third generation (3G) wireless communication technology. (i.e 3rd generation; ¶ 0008, 0027)

As per Claim 3, Hundscheidt disclose:

The method of claim 2, wherein transmitting the streaming media comprises: transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the

wireless network and using wideband code division multiple access (WCDMA) technology, universal mobile telecommunications system (UMTS) technology, and/or enhanced data GSM (global system for mobile communications) environment technology. (i.e. GSM; ¶ 0035)

As per claim 4, Hundscheidt teaches in an analogous art, that the method of claim 1, wherein the wireless communication network comprises a Wi-Fi communication network. (i.e. WLAN; ¶ 0025)

As per claim 5, Hundscheidt teaches in an analogous art, that the method of claim 4, wherein transmitting the streaming media comprises: transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using IEEE 802.11b technology. (i.e. Bluetooth; ¶ 0035)

As per Claim 6, Hundscheidt disclose:

The method of claim 1, wherein the streaming media comprises text. (i.e. SMS; ¶ 0034)

As per claim 8, Hundscheidt teaches all the particulars of the claim except content from a television broadcast, an amplitude modulation (AM) radio broadcast and/or a frequency modulation (FM) radio broadcast. However, **Solomon** teaches in an analogous art, that the method of claim 1, wherein the streaming media comprises content from a television broadcast, an amplitude modulation (AM) radio broadcast and/or a frequency modulation (FM) radio broadcast. (i.e. AM, FM; 0072)

As per claim 9 Hundscheidt teaches in an analogous art, that the method of claim 1, wherein the streaming media comprises content from a video conference and/or a gaming application. (i.e. streaming media; ¶ 0034)

As per Claim 10, Hundscheidt disclose:

The method of claim 1, wherein transmitting the streaming media comprises: transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network while moving the at least one mobile terminal between cells associated with the wireless network. (i.e. communication between two mobiles; ¶ 0039)

Claims 12-17, 19-21 are the **system** claims, corresponding to **method** claims 1-6, 8-10 respectively, and rejected under the same rational set forth in connection with the rejection of claims 1-6, 8-10 respectively, above.

Claims 23-28, 30-32 are the **computer program** claims, corresponding to **method** claims 1-6, 8-10 respectively, and rejected under the same rational set forth in connection with the rejection of claims 1-6, 8-10 respectively, above.

Response to Amendments & Remarks

Applicant's arguments with respect to claims 1-6, 8-10, 12-17, 19-21, 23-28, 30-32 has been fully considered but is moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870. The examiner can normally be reached on M-F. (8:30-5 EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on (571) 272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000 or

EBC@uspto.gov.

/Sharad Rampuria/
Primary Examiner
Art Unit 2617